

App. No. 10/754846  
Pre. Amd. Dated April 8, 2004

**Amendments to the Claims:**

This listing of claims will replace all prior versions and listing of claims in the application.

Claims 2-33 and 35-37 were previously canceled.

Claim 34 is canceled without prejudice or disclaimer.

Claims 38-51 are new.

**Listing of Claims:**

1. (Original) Plant DNA sequence:

ACTTTTCGAG CCCCTTGAAC TGGAAATTAA TACATTTTCC ACTTGACTTT  
TGAAAAGGAG GCAATCCCAC GGGAGGGAAG CTGCTACCAA CCTTCGTAAT  
GTTAATGAAA TCAAAGTCAC TCAATGTCCG AATTTCAAAC CTCANCAACC  
CAATAGCCAA T.

- 2-37 (Canceled)

38. (New) Promotor region of the stilbene-synthase gene Vst1 from grapevine which lacks at least the DNA-sequence, as set forth in Claim 1, with the exception of a promotor region which only consists of 3<sup>1</sup> base pairs from base pair -140 or from base pair -40, and which is present in fusion with the reporter gene  $\beta$ -glucuronidase from E. coli.

39. (New) Promotor region, as set forth in Claim 38, which comprises only the sequence range from the start of the translation to base pair -270.

40. (New) Promotor region, as set forth in Claim 38, which still conveys a pathogen-induced gene expression in plant cells.

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41. (New) Transgenic plants which, due to the absence (present in the natural state) DNA-sequence ACTTTTCGAG CCCCTTGAAC TGGAAATTAA TACATTTTCC ACTTGACTTT TGAAAAGGAG GCAATCCCAC GGGAGGGAAG CTGCTACCAA CCTTCGTAAT GTTAATGAAA TCAAAGTCAC TCAATGTCCG AATTTCAAAC CTCANCAACC CAATAGCCAA T, or due to the lack of at least one fragment thereof no longer show an ozone-inducible expression of the naturally ozone-inducible gene.

42. (New) Plants, as set forth in Claim 41, in which the ozone-inducible expression of disease-resistant genes is greatly reduced.

43. (New) Plants, as set forth in Claim 41, in which the ozone-inducible expression of stilbene-synthase genes, particularly that of the Vst1-gene from grapevine is greatly reduced.

44. (New) Plant cells, including protoplasts, which, due to the absence (present in the natural state) of the DNA sequence

ACTTTTCGAG CCCCTTGAAC TGGAAATTAA TACATTTTCC ACTTGACTTT TGAAAAGGAG GCAATCCCAC GGGAGGGAAG CTGCTACCAA CCTTCGTAAT GTTAATGAAA TCAAAGTCAC TCAATGTCCG AATTTCAAAC CTCANCAACC CAATAGCCAA T,

or due to a lack of at least one fragment thereof, no longer show an ozone-inducible expression of the naturally ozone-inducible gene.

45. (New) Methods for producing transgenic plants or plant cells in which the ozone-inducible expression of naturally one-inducible, defensive genes is greatly reduced or eliminated by deleting the DNA-sequence, as set forth in Claim 1, or at least a fragment thereof in the defensive gene which naturally contains said DNA sequence.

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46. (New) Processes, as set forth in Claim 45, in which the ozone-inducible expression of stilbene genes is greatly reduced or eliminated.

47. (New) Processes, as set forth in Claim 45, in which the ozone-inducible expression of the Vst1-gene from grapevine is greatly reduced or eliminated.

48. (New) Methods for removing the ozone-inducibility of naturally ozone-inducible defensive genes which naturally contain the DNA-sequence, as set forth in Claim 1, by deleting or inactivation of the DNA sequence, as set forth in the plant DNA sequence:

ACTTTTCGAG CCCCTTGAAC TGGAAATTAA TACATTTTCC ACTTGACTTT  
TGAAAAGGAG GCAATCCCAC GGGAGGGAAG CTGCTACCAA CCTTCGTAAT  
GTTAATGAAA TCAAAGTCAC TCAATGTCCG AATTTCAAAC CTCANCAACC  
CAATAGCCAA T, or at least a fragment thereof.

49. (New) A process, as set forth in Claim 48, in which the gene is a stilbene-synthase gene.

50. (New) A process, as set forth in Claim 48, in which the gene is the Vst1-gene from grapevine.

51. (New) The use of the promotor region, as set forth in Claim 38, to produce greater pathogen-inducible but not ozone-inducible resistance to disease in transgenic plants.